

Docket Management
U.S. Department of Transportation
Room PL-401
400 7th Street, SW
Washington, D.C. 20590-0001

Ref: Docket No. FMCSA-97-2277

FMCSA – Safety Performance History of New Drivers.

Coach USA Comments to the Inquiry
August 6, 2003

Coach USA, a Delaware corporation, which is not itself a motor carrier of passengers, currently controls over 90 passenger companies. A list of the companies controlled by Coach USA may be found on the web at <http://www.coachusa.com>. Through these operating companies, Coach USA is the largest provider of motor coach charter, tour and sightseeing passenger services and one of the largest non-municipal providers of commuter and transit motor coach services in the United States. Coach USA companies conduct operations throughout the United States and Canada with operating locations in over 100 cities. Coach USA's companies operate approximately 7,000 motor coaches, taxicabs and other high occupancy vehicles, which transported passengers across more than 200 million miles in 2002. They employ approximately 10,000 people, of which nearly 7,000 are commercial motor vehicle operators. Coach USA's companies include approximately 90 independently operated motor carriers. We are proud to be a part of the safest mode of travel currently operating today.

Generally, Coach USA believes that a change is needed regarding investigation of applicant drivers' previous employment histories. And generally, it appears that the elements of this SNRPM improve on the current rule's inadequacies (391.21). However, we have two specific concerns: **1)** The current SNRPM does not specify a requirement for previous employers to respond to requests without equivocation. That is, previous employers are not required to make a record of requests that may be received nor of their response, except that which is specifically required by proposed Section 391.23(j)(1)&(2), which mentions a requirement to retain a corrected erroneous response that was rebutted by an applicant to another motor carrier. An existing similar rule, Part 382.405, protects previous employers from issues of liability regarding their responses, but does not require a recorded response. Requesting employers are required to make "a good faith effort" to obtain the information and to keep corresponding records thereof. Similarly, no burden of compliance is placed on previous employers by this SNRPM to

respond. It is Coach USA's experience that many previous employers fail to respond because they are not required to keep a record as such and do not fear enforcement.

2) Coach USA requests that proposed Section 391.23(j)(3) be amended to exclude the last sentence: "The previous employer must append the driver's rebuttal to the information in its file and provide the complete appended information to any subsequent investigating prospective employer." This specific requirement will place an undo burden on previous employers and prejudice any response they may give to prospective investigating employers. The fact that subsections (1) & (2) allow for an applicant's rebuttal should suffice to ensure that previous employers provide accurate information, should they chose to respond.

Although this SNRPM does absolve previous employers from liability regarding their response to inquiries, it does not allow for any means to enforce non-compliance by previous employers who may chose to ignore such requests. It is Coach USA's belief that until such a rule includes an unequivocal requirement to respond for previous employers AND that corresponding records be maintained, this rule will become ineffective as has the current Part 382.405.

Respectfully Submitted by:

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